

REMARKS

This is in response to the Office Action mailed on February 23, 2005, in which claim 11 was rejected under 35 U.S.C. §112 second paragraph, claims 1-11, 14, 16-22 and 24-26 were rejected under 35 U.S.C. §102(e), and claims 12, 13, 15 and 23 were rejected under 35 U.S.C. §103(a). With this Amendment, claims 1-5, 7, 9, 11-20 and 22 are amended.

Claim Rejection – 35 U.S.C § 112 Second Paragraph

In the Office Action, the Examiner rejected Claim 11 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the invention for lacking antecedent basis for the respective guard member. With this amendment, claims 9, 11 and 12 have been amended to provide proper basis. Applicant now believes claims 9, 11 and 12 to be in allowable form. Reconsideration and allowance to that effect are respectfully requested.

Claim Rejection --35 U.S.C. §102(e)

In the Office Action, the Examiner rejected claims 1-11, 14, 16-22 and 24-26 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,536,796 issued to Solomon.

With respect to claim 1, the Examiner stated that "...Solomon '796 discloses a hand-truck 10, 11, 12 comprising a platform 16 and a handle 34." Applicant respectfully disagrees. However, for clarification purposes, claim 1 has been amended to include the word "operatively" to clarify that regardless the position of the handle of the present invention, the handle is accessible to operatively maneuver the hand-truck. This is not so in the Solomon patent which discloses a collapsible wagon having a telescoping handle that can be pivotally tucked under and placed into a stowed position. While in the stowed position, however, the handle of the Solomon patent is not accessible to operatively maneuver the wagon as the wagon is rendered essentially inoperative. In support of this, Applicant respectfully brings to the Examiner's attention language found in the Abstract which states that the Solomon patent is directed at a convertible wagon that has a

"...telescopically extensible handle... provided for deployment *when in use configuration* allowing for directional mobility of the wagon by the user." (Emphasis added) Additionally, the Solomon patent discloses at column 3, lines 61-65, that "...when the wagon 10 is in collapsed position (*sic*) it can also be pulled by its extended handle portion 36 in an upright position on two of its wheel assemblies extending from the back body portion 12." Referring to Figures 1 and 2, the only way that the extended handle portion can be operatively accessible when the wagon is collapsed *and* when on two of its wheel assemblies extending from the back body portion 12 is when the handle is not in its stowed position. It would otherwise be impossible to pull the wagon with the handle extended and the wagon 10 on two of its wheel assemblies 55 proximate to the back body portion 12 as described because the extended portion 36 would encounter the ground. Additionally, as is evident in Figure 1, pulling the wagon on its wheel assemblies 55 proximate to front body portion 11 would be also be impossible as aperture mounted lugs 17 and 18 would engage the ground. Thus, the handle as disclosed by the Solomon patent is not accessible to maneuver the wagon when it is either in the stowed or locked position. The Solomon patent therefore neither teaches, discloses nor suggests a hand-truck having a handle positionable between a stowed position and a locked position wherein the handle is accessible at each position to operatively maneuver the hand-truck. Therefore, Applicant believes claim 1 to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

Similarly, with respect to claim 2, the Examiner stated that the Solomon patent "...discloses a handle 34 rigidly connects (*sic*) to a first side of a platform 16 while locked." The Examiner cites Column 3, lines 12-19 of the Solomon patent in support of this rejection. Applicant respectfully disagrees. The Solomon patent discloses at Column 2, line 54 through Column 3, line 12 a handle 34 that pivotally connects to the wagon at 17 and 18 that can be held in select angular positions within a ninety degree arc. It is implicit within the Solomon patent that the select angular positions of the handle are arrived at by a user applying a force to the handle greater than the friction force between circular recesses 42 and registration buttons 44. In other words, the handle of the Solomon patent is held into place by bias, and is not "locked" as defined and claimed by the present application. By no means could the select angular position of the Solomon

patent be considered as “rigid”, otherwise the handle of the Solomon patent would be too difficult to position, especially considering that this wagon is designed as a child’s toy. (Column 1, line 44) However, to further clarify the invention, claim 2 has been amended to include the language “to operatively maneuver the hand truck” as at a minimum the handle of the present invention is intended to push or pull the hand-truck in an operative manner, including when heavy loads are placed onto the platform, when the handle is rigidly connected to the platform in the locked position as defined by amended claim 2. When in the locked position, any shear force short of destructing the handle of the present invention can be applied without moving the handle. The same can not be said of the Solomon patent. Additionally, even when the handle of the Solomon patent is pivoted under the wagon for storage, it is not rigidly connected to a first side of the platform. As disclosed at Column 3, lines 7-12, the handle “...can be pivoted and held in select angular positions within a 90 degree arc as illustrated in Figure 5 of the drawings at A.” Therefore, when the handle of the Solomon patent is positioned for storage, the handle is positioned beyond the 90 degree arc A and apparently no longer subjected to any bias, at least as suggested by the Solomon patent. Also, at Column 3, lines 57-60, the Solomon patent discloses that “[t]he handle assembly 34 is then pivotally rotated so as to *engage* the underside of the hereinbefore-described body portions 11 and 12.” (Emphases added) Nowhere does the Solomon patent teach, disclose or suggest that the handle is locked or rigidly connected to the wagon while in this position. Thus, at all times, the handle 34 of the Solomon patent is pivotally connected, and at no times is it rigidly connected. Thus, the Solomon patent neither teaches, discloses nor suggests a hand-truck having a handle rigidly connected to a first side of a platform while in a *locked* position to operatively maneuver the hand-truck. For the aforementioned reasons, including arguments made with respect to claim 1, Applicant believes that claim 2 is novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action, the Examiner also rejected claim 3. With this Amendment, claim 3 has been amended to now depend from claim 2. Because claim 2 depends from claim 1, and it is believed that both claims 1 and 2 are novel and in allowable form, then claim 3 is believed to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

The Examiner also rejected claims 4 and 5 as being anticipated by the Solomon patent. With respect to claim 5, the Examiner stated that the Solomon patent discloses "...a hand-truck further comprising a channel member 35 attached to a platform underside 16 (attached in stowed position) for receiving a handle 34 while stowed." Applicant respectfully disagrees. Firstly, it is not understood what is meant by "platform underside 16" as this is not disclosed in the Solomon patent. Secondly, as previously mentioned, when pivotally rotated for storage, the handle assembly 34 *engages* the underside of body portions 11 and 12. (Column 3, lines 57-60) (Emphasis added) Applicant respectfully submits to the Examiner that the terms "engage" and "attach" are not synonymous with one another. The Solomon patent only suggests that the handle assembly 34 pivotally rotates as to *engage* (i.e., not fixedly attach) to the underside of the body portions. Therefore, to state that the Solomon patent discloses that the base portion 35 attaches to an underside of the platform while in the stowed position is, in Applicant's respectful opinion, erroneous. However, to better clarify the present invention, claim 5 has been amended to state that the channel member is **fixedly attached** to the underside of the platform. This should quash any concerns that may exist between the terms "engage" and "attach" because nowhere in the Solomon patent is it even suggested that handle assemble 34 is fixedly attached to an underside of a platform as this would render the handle assemble 34 virtually useless. The only attachment of handle assembly 34 suggested by the Solomon patent is a pivotal attachment (which is additionally not on an underside of a platform). Thus, with this amendment Applicant believes that the present invention as defined by amended claim 5 is completely and entirely distinguished from the Solomon patent as the Solomon patent neither teaches, suggests nor discloses a channel member fixedly attached to an underside of the platform for receiving the handle. Furthermore, claim 4 has been amended to depend from claim 5 and to define the invention as having the **handle pivotally attached to the channel member** (i.e., not the channel member being pivotally attached as suggested by the Solomon patent) while in the pivotal position. The invention as defined by amended claim 4 is now completely distinguished from the prior art. Subsequently, and in addition to all preceding arguments, both claims 4 and 5 are now believed to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action, the Examiner rejected claim 6 stating that the Solomon patent "...discloses support members 23, 27 extending from a platform 16." Applicant respectfully disagrees. In fact, it is not understood what is meant by the Examiner's statement as the Solomon patent merely discloses inner engaging platforms 16, 23 and base 27. (Column 2, line 45) What is not understood is how inner engaging platform 23 or base 27 extend from the platform as they themselves are variations of interconnecting platforms, as suggested by the Solomon patent. Nowhere in the Solomon patent is there any suggestion of a hand-truck comprising support members extending from the platform and positioned substantially parallel to the fixedly attached channel member, wherein portions of the support members and the fixedly attached channel member *equidistantly extend from the platform*. Because the Solomon patent neither teaches, discloses nor suggests the foregoing, claim 6 is not anticipated. Additionally, because claim 6 depends from claim 5, and claim 5 is believed to be novel and in allowable form, then claim 6 is novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action the Examiner rejected claim 7 stating that the Solomon patent discloses a "...hand-truck further comprising a hinge 41A connected to a platform 16 and including first and second hinge members 41A, 38 and a handle comprising 34 an elongated portion 36 and a cylindrical member (hinge pin) 41A." Taking into consideration that it is not understood what is meant by giving reference 41A three separate parts (hinge, hinge members and cylindrical member), Applicant respectfully disagrees. Claim 7 depends from claim 5, and as previously discussed, because it is believed that claim 5 is novel and in allowable form, claim 7 is also believed to be novel and in allowable form. However, claim 7 has been amended for clarification purposes to better define the invention. Claim 7 has been amended to further define the invention as having a hinge with first and second hinge members connected to the fixedly attached channel member and a handle with an elongated portion disposable between the first and second hinge members with a cylindrical member engageable with the first and second hinge members which allows the handle to be pivotal about the channel member. To begin with, the Solomon patent neither teaches, suggests nor discloses a handle with an elongated portion slidably disposable between first and second hinge members and

disposable with the rigidly attached channel member. While the Solomon patent does disclose an extensible handle portion 36 disposable within base 35, extensible portion 36 is *not* slidably disposable between, nor attached to, any hinge member 17, 18, 38, 39 or 40. Nor is base 35 slidably disposable between any first and second hinge members. Additionally, the Solomon patent neither teaches, suggests nor discloses that the extensible handle portion 36 has a cylindrical member protruding from a distal end to engage the first and second hinge members. No part of the extensible portion 36 directly pivots about anything. Again, while the Solomon patent discloses that extensible portion 36 is disposable within base 35, and base 35 includes engagement lugs 38, 39 and 40, base 35 is not itself slidably disposable between said engagement lugs 38, 39 and 40. Nor is base 35 of the Solomon patent slidably disposable between mounting lugs 17 and 18. In the present invention as defined by claim 7, the handle is both capable of being slidably disposed within the channel member (which is fixedly attached to the underside of the platform) *and* being pivotally attached to the channel member. This is neither taught, disclosed nor suggested by the Solomon patent. The Solomon patent merely discloses a handle assembly 34 including a slidable portion 36 (which has no pivotal attachment) and the pivotal base 35 (which is neither fixedly attached to the underside of the platform nor slidably disposable between any hinge members). The handle assembly 34 of the Solomon patent is forever pivotally attached to the wagon, while the handle of the present invention can be slidably disposed within the channel member, pivotally attached to the channel member or locked to the platform. Because this is neither taught, disclosed nor suggested by the Solomon patent, Applicant believes the invention as defined by claim 7 to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action the Examiner rejected claim 8 stating that the Solomon patent discloses "... a locking plate 53 connected to a platform 16 and wherein the handle further comprises a tongue member 38 positioned upon an elongated portion 36 a tongue member 38 (*sic*).” Applicant respectfully disagrees. First, it is not understood what is meant by "... a tongue member 38 positioned upon an elongated portion 36 a tongue member 38" as a member is not normally positioned on itself. Second, annular engagement lug 38 (Column 2, line 59) is not positioned upon the extensible portion 36, but is actually a part

of base 35 (Figure 13). Third, if the Examiner considers annular engagement lug 38 to be a tongue member, it is not understood how an annular (i.e., ring shaped) member can extend from *and* downwardly parallel (i.e., straight) to the elongated portion. Fourth, if the Examiner considers annular engagement lug 38 to be a tongue member and flange 53 to be a locking plate, it is not understood how flange 53 is placed between engagement lug 38 and the extensible portion 36 to rigidly lock the handle to the platform. Nothing in the Solomon patent even remotely suggests, teaches or discloses as much. In fact, Applicant believes that the aforementioned is physically impossible, as suggested by the Solomon patent, without destroying the handle assembly 34 to accomplish such means. Because the Solomon patent neither teaches, discloses nor suggests a locking plate connected to the platform and positioning a handle to place the locking plate between a tongue member extending from and downwardly parallel to the handle to rigidly lock the handle to the platform, claim 8 is believed to be novel and in allowable form. Alternatively, because claim 8 depends from claim 7, and it is believed that claim 7 is novel and in allowable form, then it is also believed that claim 8 is novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action the Examiner rejected claim 9 stating that the Solomon patent discloses "...downwardly extended guard member 55 the guard member attached to a platform first end 16 and wheels 55." Applicant respectfully disagrees. It is not understood what is meant by "guard member 55" and "wheels 55". The Solomon patent makes reference only to wheel assemblies 55 (Column 3, lines 24-27). While Solomon patent does appear to suggest circular guard members positioned proximate to each wheel, none of these guards appear to be a downwardly extending guard member *attached* to a first end of the platform. Furthermore, the Solomon patent neither teaches, discloses nor suggests using any guards to either assist in raising the hand-truck or to support the hand-truck in a substantially vertical position. This point is exacerbated by the fact that wheel guards (which appear to be a part of the wheel assemblies themselves, but definitely not *attached* to a first end of the platform) of the Solomon patent are circular in nature, and unable to provide any suitable base to position the hand-truck in a substantially vertical position *supported by the guard member*, as clearly defined by claim 9. For the foregoing reasons, it is believed that claim 9 is novel and in allowable form. Furthermore, because

claim 9 depends from claim 1, and it is believed that claim 1 is novel and in allowable form, then claim 9 is believed to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action the Examiner also rejected claims 10 and 11 as being anticipated by the Solomon patent. Both claims 10 and 11 depend from claim 9. Because it is believed that claim 9 is novel and in allowable form, then both claims 10 and 11 are believed to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office action the Examiner also rejected claim 14 as being anticipated by the Solomon patent stating that the Solomon Patent discloses:

A hand-truck 10, 11, 12 comprising a platform 16, a channel member 35 attached to an underside of a platform 16 (when closed), locking plate 53 connected to a platform 16 proximate to a channel member 35, a hinge 41A connected to a platform 16, a handle 34 disposable within a channel member 35, a handle comprising an elongated portion 36 and handlebars 50, tongue 38 extending from and downwardly parallel to an elongated portion 36, and a stop 27, whereupon extracting a handle 34 from a channel member 35 a stop 37 engages a hinge 41A and a handle 34.

Applicant respectfully disagrees. To begin with, the Examiner once again takes the position that channel member 35 is “attached to an underside of a platform” when closed. However, as has been previously discussed, the Solomon patent does not teach, disclose or suggest as much. Referring again to column 3, lines 57-60 of the Solomon patent, when handle assemble 34 is pivotally rotated for storage, the handle assembly 34 *engages* the underside of body portions 11 and 12. (Emphasis added) Applicant again respectfully submits to the Examiner that the terms “engage” and “attach” are not synonymous with one another. The Solomon patent only suggests that the handle assembly 34 pivotally rotates as to *engage* (i.e., not fixedly attach) to the underside of the body portions. Therefore, to state that the Solomon patent discloses that the base portion 35 attaches to an underside of the platform while in the stowed position is, in Applicant’s respectful opinion, erroneous. However, to better clarify the present invention, claim 14 has been amended to state that the channel member is **fixedly attached** to the underside of the platform. Also, the only attachment of handle assembly 34 of the Solomon patent is a

pivotal attachment. Thus, with this amendment Applicant believes that the present invention as defined by amended claim 14 is completely and entirely distinguished from the Solomon patent as the Solomon patent neither teaches, suggests nor discloses a channel member fixedly attached to an underside of the platform for receiving the handle. Next, the Examiner's position that the Solomon patent discloses a "a handle 34 disposable within a channel member 35" is not understood as the Solomon patent refers to a handle assembly 34 having a base portion 35 and an extensible portion 36 (Column 2, lines 54-56). Thus, in addition to the base 35 not being attached (fixedly or otherwise) to an underside of a platform, base 35 of the Solomon patent is indeed a part of the handle assembly 34 which further includes extensible portion 36 being disposable within base 35. This is significant because later the Examiner states that "whereupon extracting a handle 34 from a channel member 35 a stop 27 engages a hinge 41A and a handle 34." Applicant respectfully submits that this is erroneous in that handle 34 of the Solomon patent can not be extracted from base 35 because base 35 is indeed a part of the overall handle assembly 34. In fact, it is extensible portion 36 that is extractable from base 35 (not handle assembly 34). However, the Solomon patent neither teaches, discloses nor suggests that extensible portion 36 *includes a stop or that extensible portion 36 ever engages a hinge*. Base 35 of the Solomon patent is permanently and pivotally attached to body portion 11; extensible portion 36, while disposable within base 35, *does not include a stop that ever engages a hinge when extensible portion 36 is extracted from base 35* as defined by claim 14 of the present invention. Next, the Examiner's position that "...a handle comprising an elongated portion 36..., tongue 38 extending from and downwardly parallel to an elongated portion 36..." is not understood. As disclosed in the Solomon patent, annular engagement lug 38 (Column 2, line 59) is not positioned upon the extensible portion 36, but is actually a part of base 35 (Figure 13). If the Examiner considers annular engagement lug 38 to be a tongue member, it is not understood how an annular (i.e., ring shaped) member can extend from *and* downwardly parallel (i.e., straight) to the elongated portion. Also, if the Examiner considers annular engagement lug 38 to be a tongue member and flange 53 to be a locking plate, it is not understood how engagement lug 38 is engaged with flange 53 to lock extensible portion 36 to the platform. With all due respect, the Examiner provides no language to support the rejection on these grounds, and nothing

in the Solomon patent even remotely suggests, teaches or discloses as much. However, for purely clarification purposes, claim 14 has been amended to define the invention as having a handle that is lockable to the platform by positioning the handle to dispose the locking plate between the tongue member and the handle. This is neither taught, disclosed nor suggested by the Solomon patent, or any other prior art for that matter. As such, for all the foregoing reasons, Applicant believes claim 14 to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action the Examiner rejected claim 16 stating that the Solomon patent discloses "...first and second guard members 55 connected to the underside of the platform 16...." While Applicant respectfully disagrees, claim 16 has been amended for clarification purposes to state that the first and second guard members are **attached** to the underside of the platform. The Solomon patent makes reference only to wheel assemblies 55 (Column 3, lines 24-27). While there does appear to be circular guard members positioned proximate to each wheel, none of these guards appear to be attached to an underside of the platform. Furthermore, the Solomon patent neither teaches, discloses nor suggests using any guards to either assist in raising the hand-truck or to support the hand-truck in a substantially vertical position. This point is exacerbated by the fact that the wheel guards (which appear to be a part of the wheel assemblies themselves, but definitely not attached to an underside of the platform) of the Solomon patent are circular in nature, and unable to provide any suitable base to position the hand-truck in a substantially vertical position *supported by the guard members* as defined by claim 16 of the present invention. For the foregoing reasons, it is therefore believed that claim 16 is novel and in allowable form. Furthermore, because claim 16 depends from claim 14, and it is believed that claim 14 is novel and in allowable form, then claim 16 is believed to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action the Examiner also rejected claim 17 as being anticipated by the Solomon patent. For clarification purposes, claim 17 has been amended to include the term "operatively" in relation to how the hand-truck is maneuvered and that the handlebars are accessible to operatively maneuver the hand-truck regardless the position of the handle. This distinguishes claim 17 over the Solomon patent because handlebars 50

of the Solomon patent are not accessible to operatively maneuver the wagon 10 when the handle assembly 34 is in the storage position (please refer to arguments made herein with respect to claim 1). Applicant therefore believes claim 17 to be novel and in allowable form. Alternatively, because claim 17 depends from claim 14, and it is believed that claim 14 is novel and in allowable form, then claim 17 is novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action the Examiner also rejected claim 18 as being anticipated by Solomon patent stating “... support members 23, 27 extending from a platform 16 parallel to a channel member 35 wherein portions of the support members and the channel member equidistantly extend from a platform.” Applicant respectfully disagrees. In fact, it is not understood what is meant by the Examiner’s statement as the Solomon patent merely discloses inner engaging platforms 16, 23 and base 27. (Column 2, Line 45) What is not understood is how inner engaging platform 23 or base 27 extends from the platform as they themselves are variations of interconnecting platforms, as disclosed by the Solomon patent. Nowhere in the Solomon patent is there any disclosure of a hand-truck comprising support members extending from the platform and positioned substantially parallel to the fixedly attached channel member, wherein portions of the support members and the channel member *equidistantly extend from the platform*. However, to better clarify the present invention, claim 18 has been amended to include the term “downward” to better define the placement of the support members. Because both engaging platform 23 and base 27 are at all times a part of body portions 11 and 12, and therefore cannot be considered as being *extending downward from the platform*, the Solomon patent neither teaches, discloses nor suggests the foregoing. As such, Applicant believes claim 18 to be novel and in allowable form. Alternatively, because claim 18 depends from claim 14, and claim 14 is believed to be novel and in allowable form, Applicant believes that the present invention as defined by claim 18 to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action the Examiner rejected claim 19 as being anticipated by the Solomon patent. For clarification purposes, claim 19 has been amended to depend from claim 18 and to state that the support members and the channel member are positioned to

receive a forklift finger between the channel member and either support member or transversal to the channel member and the support members. Because this is neither taught, disclosed nor suggested by the Solomon patent, claim 19 is believed to be novel and in allowable form. Moreover, because claim 19 depends from claim 18, and it is believed that claim 18 is novel and in allowable form, then claim 19 is also believed to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action, the Examiner rejected claim 20 as being anticipated by the Solomon patent. Claim 20 has been amended by defining the invention as having a channel member fixedly attached to an underside of the platform, and having support members extending downward from the platform and positioned parallel to the channel member. With respect to the channel member being fixedly attached to an underside of the platform, Applicant refers to and incorporates all aforementioned arguments contained herein to support Applicant's position that this feature distinguishes the present invention from Solomon patent. With respect to the support member extending downward from the platform and positioned parallel to the fixedly attached channel member, Applicant refers to and incorporates all aforementioned arguments contained herein to support Applicant's position that this feature distinguishes the present invention from the Solomon patent. For the foregoing reasons, it is believed that claim 20 is novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

In the Office Action the Examiner rejected claim 21 stating that the Solomon patent discloses "... a locking mechanism 53 to lock a hand 34 in a locked position (col. 3, lns. 12-19) comprising a locking plate 53 and a tongue member 38." Once again, it is not understood how it is physically possible, as suggested by the Solomon patent, to engage engagement lug 38 with adjustable flange 53, let alone being able to fixedly secure the handle to the platform in a locked position as taught and claimed by the present invention. As previously discussed in greater detail, nothing in the Solomon patent even remotely suggests, teaches or discloses as much. Adjustable flange 53, as suggested by the Solomon patent, is used to selectively position the extensible portion 36 within base 35. Engagement lug 38 is not a part of extensible portion 36, but is a part of base 35 and is

used in conjunction with mounting lugs to pivotally attach base 35 to front body portion 11. Engagement lug 38 and adjustable flange 53, as suggested by the Solomon patent, have absolutely nothing to do with one another, and in no event can it be considered that either is engageable with the other. As such, Applicant believes claim 21 is novel and in allowable form. Alternatively, claim 21 depends from claim 20, and because it is believed that claim 20 is novel and in allowable form, then claim 21 is novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

Claim 22 has been amended to better clarify the present invention, and it is believed to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

Claims 24-26 depend in some fashion from claim 20. Because claim 20 is believed to be novel and in allowable form, claims 24-26 are also believed to be novel and in allowable form. Reconsideration and allowance to that effect are respectfully requested.

Claim Rejection – 35 U.S.C. §103(a)

In the Office Action the Examiner rejected claim 12 as being unpatentable over the Solomon patent with respect to claim 10, and further in view of U.S. Patent No. 2,659,100 issued to Cramer. Because of a typographical error, claim 12 has been amended to depend from claim 9. Applicant does not believe that this will materially affect the Examiner's rejection. However, being that claim 12 now depends, and did depend in some fashion, from claim 9, and claim 9 is believed to be non-obvious and in allowable form, then claim 12 is non-obvious as well. Reconsideration and allowance to that effect is respectfully requested.

In the Office Action the Examiner rejected claims 13, 15 and 23 as being unpatentable over the Solomon patent in view of U.S. Patent No. 3,658,383 issued to Sisson. The Examiner stated that the Solomon patent "...discloses a hand-truck but does not disclose a foot-brake." The Examiner further stated that the Sisson patent:

... discloses a hand-truck 1 comprising a handle 39, and a foot-brake 14, 15 connected to a platform 18. [The Sisson patent] adds a foot-brake to prevent shifting of hand-truck 1 during unloading. Col. 1, lns. 65-73. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the hand-truck of [the Solomon patent] to include a hand-brake, as per the teachings of [the Sisson patent], to prevent shifting during unloading.

Applicant respectfully disagrees. Referring to Column 1, lines 65-73 of the Sisson patent, a pair of small outrigger wheels 11 are located centrally near the outboard ends 12 and 13 of the frame 2. The outrigger *wheels* are preferably associated with a *suitable brake structures* 14 controlled, in this example, by operating levers 15 whereby the *wheels 11 are selectively locked into position* to prevent shifting of the vehicle. (Emphasis added). To better clarify the invention, claims 13 and 15 has been amended to show that the foot-brake is engageable with the ground, not the wheels. Claim 23 already defines the present invention as the foot-brake engaging the ground to prevent movement of the hand-truck. This is neither taught, disclosed nor suggested by either the Solomon patent or the Sisson patent. As such, Applicant believes that claims 13, 15 and 23 are non-obvious over the prior art, and thus in allowable form. Alternatively, because each of claims 13, 15 and 23 depend from a claim that was found to be non-obvious, and are otherwise in allowable form, then each of claims 13, 15 and 23 are subsequently non-obvious an in allowable form. Reconsideration and allowance of claims 13, 15 and 23 are respectfully requested.

CONCLUSION

For the aforementioned reasons, it is now believed that claims 1-26 are in order for allowance. Reconsideration and notice of allowance to that effect for claims 1-26 are respectfully requested.

Respectfully submitted,

DuFAULT LAW FIRM

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